

107TH CONGRESS
1ST SESSION

S. 1620

To authorize the Government National Mortgage Association to guarantee conventional mortgage-backed securities, and for other purposes.

IN THE SENATE OF THE UNITED STATES

NOVEMBER 1, 2001

Mr. ALLARD introduced the following bill; which was read twice and referred to the Committee on Banking, Housing, and Urban Affairs

A BILL

To authorize the Government National Mortgage Association to guarantee conventional mortgage-backed securities, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Home Ownership Ex-
5 pansion Act of 2001”.

6 **SEC. 2. GNMA GUARANTEE OF SECURITIES BACKED BY**
7 **CONVENTIONAL MORTGAGES.**

8 (a) FINDINGS.—Congress finds that—

9 (1) expanding home ownership is a national
10 goal, and that increasing the principal secondary

1 market outlets for conventional home mortgages will
2 serve that goal by improving the liquidity of invest-
3 ments in those mortgages; and

4 (2) risk-sharing between the public sector and
5 the private mortgage insurance industry will provide
6 consumers with greater access to mortgage credit
7 opportunities.

8 (b) AUTHORITY TO GUARANTEE CONVENTIONAL
9 MORTGAGE-BACKED SECURITIES.—Section 306 of the
10 National Housing Act (12 U.S.C. 1721) is amended by
11 adding at the end the following:

12 “(h) GNMA GUARANTEE OF SECURITIES BACKED
13 BY CONVENTIONAL MORTGAGES.—

14 “(1) IN GENERAL.—The Association may guar-
15 antee the timely payment of principal and interest
16 on conventional mortgage-backed securities that are
17 backed by qualifying privately insured mortgages
18 that are insured with primary mortgage insurance,
19 extended mortgage insurance, and supplemental
20 mortgage insurance.

21 “(2) PREMIUMS.—The issuer of securities guar-
22 anteed by the Association under this subsection that
23 are backed by qualifying privately insured mortgages
24 shall—

1 “(A) for primary mortgage insurance, col-
2 lect from the mortgagor, and remit to the quali-
3 fied mortgage insurer, the premium or pre-
4 miums as may be established by the qualified
5 mortgage insurer in accordance with applicable
6 Federal or State law; and

7 “(B) for extended mortgage insurance and
8 supplemental mortgage insurance, pay and
9 remit the premium or premiums to the qualified
10 mortgage insurer from the sums attributable to
11 the difference between the interest rates appli-
12 cable to the mortgages in the particular pool
13 and the interest rate set forth on the trust cer-
14 tificate or security guaranteed by the Associa-
15 tion based on and backed by such mortgages,
16 and without additional premium charge there-
17 fore to the mortgagor.

18 “(3) DISPOSITION OF PROPERTY UPON DE-
19 FAULT.—Upon default by a mortgagor of a mort-
20 gage guaranteed under this subsection, the property
21 covered by the mortgage shall be disposed of by the
22 issuer of the securities guaranteed under this sub-
23 section or the qualified mortgage insurer in accord-
24 ance with the customary policies and procedures of
25 that issuer and insurer.

1 “(4) AUTHORITY.—As part of the authority
 2 provided to the Association to issue guarantees
 3 under this subsection for fiscal year 2002, the Asso-
 4 ciation may, during fiscal year 2002, issue guaran-
 5 tees of the timely payment of principal and interest
 6 on trust certificates or other securities based on and
 7 backed by qualifying privately insured mortgages in
 8 an aggregate amount equal to not more than
 9 \$50,000,000,000.

10 “(5) REGULATORY POWER OF THE SEC-
 11 RETARY.—The Secretary shall—

12 “(A) have authority to review and approve
 13 premiums and other terms and conditions es-
 14 tablished for the primary mortgage insurance
 15 covering the mortgages contained in the trusts
 16 or pools guaranteed by the Association under
 17 this subsection, and shall have the authority to
 18 approve participation in the program based on
 19 safety and soundness;

20 “(B) prescribe such rules and regulations
 21 as shall be necessary and proper to ensure that
 22 the purposes of the Home Ownership Expans-
 23 sion Act of 2001 are accomplished.

24 “(i) DEFINITIONS.—As used in this section:

1 “(1) CONVENTIONAL MORTGAGE LIMIT.—The
2 term ‘conventional mortgage limit’ means the great-
3 er of the applicable maximum original principal obli-
4 gation of conventional mortgages established by—

5 “(A) the Federal National Mortgage Asso-
6 ciation, pursuant to section 302(b)(2); or

7 “(B) the Federal Home Loan Mortgage
8 Corporation, pursuant to section 305(a)(2) of
9 the Federal Home Loan Mortgage Corporation
10 Act (12 U.S.C. 1454(a)(2)).

11 “(2) COVERAGE PERCENTAGE.—The term ‘cov-
12 erage percentage’ means the percentage of the total
13 of the outstanding principal balance on a mortgage,
14 and accrued interest, advances, and reasonable ex-
15 penses related to property preservation and fore-
16 closure, that is subject to payment in the event of
17 a claim under a policy of primary mortgage insur-
18 ance on a qualifying privately insured mortgage.

19 “(3) EXTENDED MORTGAGE INSURANCE.—The
20 term ‘extended mortgage insurance’ means insurance
21 that—

22 “(A) is issued by a qualified mortgage in-
23 surer;

24 “(B) guarantees and insures against losses
25 on the mortgage;

1 “(C) has the same coverage percentage
 2 and other substantially similar terms and condi-
 3 tions as the primary mortgage insurance for the
 4 mortgage;

5 “(D) becomes effective upon mandatory
 6 cancellation or termination of the primary
 7 mortgage insurance, and remains in effect until
 8 the mortgage is paid in full; and

9 “(E) is not subject to mandatory cancella-
 10 tion or termination.

11 “(4) MANDATORY CANCELLATION OR TERMI-
 12 NATION.—The term ‘mandatory cancellation or ter-
 13 mination’ means cancellation or termination of mort-
 14 gage insurance, as provided in section 3 of the
 15 Homeowners Protection Act of 1998 (12 U.S.C.
 16 4902) or by a protected State law, as defined in sec-
 17 tion 9 of that Act.

18 “(5) PRIMARY MORTGAGE INSURANCE.—The
 19 term ‘primary mortgage insurance’ means insurance
 20 that—

21 “(A) is issued by a qualified mortgage in-
 22 surer;

23 “(B) guarantees and insures against losses
 24 on the mortgage, under standard terms and

conditions generally offered in the private mortgage guaranty insurance industry;

“(C) has a coverage percentage equal to—

“(i) not less than 12 percent, if the principal-to-value ratio is greater than 80 percent and not greater than 85 percent;

“(ii) not less than 25 percent, if the principal-to-value ratio is greater than 85 percent and not greater than 90 percent;

“(iii) not less than 30 percent, if the principal-to-value ratio is greater than 90 percent and not greater than 95 percent; and

“(iv) not less than 35 percent, if the principal-to-value ratio is greater than 95 percent; and

“(D) may be canceled or terminated by the mortgagor, issuer, or qualified mortgage insurer only pursuant to mandatory cancellation or termination.

“(6) PRINCIPAL-TO-VALUE RATIO.—The term ‘principal-to-value ratio’ means the ratio of the original outstanding principal balance of a first mortgage to the value of the property securing the mortgage, as established at the time of origination by appraisal

1 or other reliable indicia of property, conducted or
 2 performed not earlier than 6 months before the date
 3 of origination, and not later than that date of origi-
 4 nation.

5 “(7) QUALIFIED MORTGAGE INSURER.—The
 6 term ‘qualified mortgage insurer’ means a provider
 7 of private mortgage insurance, as defined in section
 8 2 of the Homeowners Protection Act of 1998 (12
 9 U.S.C. 4901), that—

10 “(A) is authorized and licensed by a State
 11 or an instrumentality of a State to transact pri-
 12 vate mortgage insurance business in the State
 13 in which the provider is transacting that busi-
 14 ness, excluding any entity that is exempt from
 15 State licensing requirements;

16 “(B) is rated in 1 of the 2 highest rating
 17 categories by not less than 1 nationally recog-
 18 nized statistical rating organization; and

19 “(C) meets such additional qualifications
 20 as may be determined by the Association.

21 “(8) QUALIFYING PRIVATELY INSURED MORT-
 22 GAGE.—The term ‘qualifying privately insured mort-
 23 gage’ means a first mortgage—

24 “(A) that is not—

1 “(i) insured under title II of this Act,
2 except as specifically provided in this sec-
3 tion;

4 “(ii) insured under title V of the
5 Housing Act of 1949 (42 U.S.C. 1471 et
6 seq.);

7 “(iii) insured or guaranteed under
8 chapter 37 of title 38, United States Code;
9 or

10 “(iv) made or guaranteed under part
11 B of title V of the Public Health Service
12 Act (42 U.S.C. 290bb et seq.);

13 “(B) that—

14 “(i) is secured by property comprising
15 1-to-4 family dwelling units;

16 “(ii) has a term of not longer than 30
17 years;

18 “(iii) has a principal-to-value ratio of
19 more than 80 percent; and

20 “(iv) has an original principal obliga-
21 tion that does not exceed the conventional
22 mortgage limit;

23 “(C) not more than 1 payment of which
24 has been delinquent by more than 30 days, and
25 no payment of which has been delinquent by

1 more than 60 days, during the 12-month period
2 immediately preceding the time of guarantee;
3 and

4 “(D) that is covered by primary mortgage
5 insurance, extended mortgage insurance, and
6 supplemental mortgage insurance.

7 “(9) SUPPLEMENTAL MORTGAGE INSURANCE.—
8 The term ‘supplemental mortgage insurance’ means
9 insurance that—

10 “(A) is issued by a qualified mortgage in-
11 surer;

12 “(B) guarantees and insures against losses
13 on the mortgage under such terms and condi-
14 tions as are reasonably acceptable to the Asso-
15 ciation;

16 “(C) becomes effective on the date on
17 which the guaranty becomes effective; and

18 “(D) terminates as if subject to automatic
19 termination under section 3(b) of the Home-
20 owners Protection Act of 1998 (12 U.S.C.
21 4902(b)), subject to the conditions stated in
22 that section, or when the mortgage is paid in
23 full, whichever occurs first.

1 “(10) TRUST OR POOL.—A trust or pool re-
2 ferred to in this section means a trust or pool com-
3 posed only of—

4 “(A) qualifying privately insured mortgages; or
5 “(B) mortgages insured under title II.”.

6 (c) GUARANTY FEE.—Section 306(g)(3)(A) of the
7 National Housing Act (12 U.S.C. 1721(g)(3)(A)) is
8 amended—

9 (1) by inserting “(i)” after “(A)”; and

10 (2) by adding at the end the following:

11 “(ii) The Association shall assess and collect a fee
12 in an amount equal to not more than 8 basis points, as
13 determined by the Secretary, in order to generate revenues
14 to the Federal Government in excess of the cost to the
15 Federal Government, as defined in section 502 of the Fed-
16 eral Credit Reform Act of 1990 (2 U.S.C. 661a), of the
17 guaranty of the timely payment of principal and interest
18 on trust certificates or other securities based on or backed
19 by qualifying privately insured mortgages under sub-
20 section (h).”.

21 (d) VOLUNTARY PROGRAM PARTICIPATION; NO FED-
22 ERAL CONTRACTOR STATUS.—Section 306(g) of the Na-
23 tional Housing Act (12 U.S.C. 1721(g)) is amended by
24 adding at the end the following:

1 “(4) Nothing in this subsection shall be construed to
 2 require any issuer to issue any trust certificate or security
 3 that is based on and backed by a trust or pool composed
 4 of qualifying privately insured mortgages.

5 “(5) Notwithstanding any other provision of law, a
 6 qualified mortgage insurer that participates in the guar-
 7 antee program under subsection (h) shall not be consid-
 8 ered, by virtue of such participation, as entering into a
 9 contract with any Federal department or agency, or par-
 10 ticipating in any program or activity receiving Federal fi-
 11 nancial assistance, or participating in any program or ac-
 12 tivity conducted by any Federal department or agency.
 13 Nothing in this paragraph is intended to deny or otherwise
 14 affect the rights of the Association as the assignee, holder,
 15 or beneficiary of a mortgage insurance contract.”.

16 (e) REINSURER RATINGS REQUIREMENTS.—Section
 17 306(g) of the National Housing Act (12 U.S.C. 1721(g)),
 18 as amended by this Act, is amended by adding at the end
 19 the following:

20 “(6) A qualified mortgage insurer may not rein-
 21 sure any portion of its obligations under subsection
 22 (h) with any reinsurance that—

23 “(A) is not rated in 1 of the 2 highest rat-
 24 ing categories by not less than 1 nationally rec-
 25 ognized statistical rating organization; or

1 “(B) fails to meet such other requirements
2 as the Secretary may deem appropriate.”.

3 **SEC. 3. CONFORMING AMENDMENTS.**

4 (a) GUARANTEES.—Section 306(g)(1) of the Na-
5 tional Housing Act (12 U.S.C. 1721(g)(1)) is amended—

6 (1) by inserting “or subsection (h)” after the
7 term “this subsection” each place it appears;

8 (2) by inserting “(A)” after “(1)”;

9 (3) by striking “The Association shall collect”
10 and inserting the following:

11 “(B) The Association shall collect”;

12 (4) by striking “In the event” and inserting the
13 following:

14 “(C) In the event”;

15 (5) by striking “In any case” and inserting the
16 following:

17 “(D) In any case”;

18 (6) in subparagraph (D), as so designated by
19 paragraph (4) of this subsection—

20 (A) by striking “(I)” and inserting “(i)”;

21 (B) by striking “(II)” and inserting “(ii)”;

22 and

23 (C) by striking “(III)” and inserting
24 “(iii)”;

1 (7) by striking “The Association is hereby em-
2 powered,” and all that follows through “against
3 which the guaranteed securities are issued.” and in-
4 serting the following:

5 “(E)(i) The Association may, in connection with any
6 guaranty under this subsection or subsection (h), whether
7 before or after any default by the issuer or any default
8 by the qualified mortgage insurer (in the case of securities
9 based on and backed by qualifying privately insured mort-
10 gages)—

11 “(I) provide by contract with the issuer for the
12 extinguishment, upon default by the issuer, of any
13 redemption, equitable, legal, or other right, title, or
14 interest of the issuer in any mortgage or mortgages
15 constituting the trust or pool against which the
16 guaranteed securities are issued; or

17 “(II) provide by contract with the qualified
18 mortgage insurer for the extinguishment, upon de-
19 fault by the qualified mortgage insurer, of any re-
20 demption, equitable, legal, or other right, title, or in-
21 terest of the qualified mortgage insurer in such
22 mortgage or mortgages, as well as any related pri-
23 mary mortgage insurance, extended mortgage insur-
24 ance, or supplemental mortgage insurance coverage

1 or any future premiums and proceeds related there-
2 to.

3 “(ii) With respect to any issue of guaranteed
4 securities—

5 “(I) in the event of default by the issuer, and
6 pursuant otherwise to the terms of the contract, the
7 mortgages that constitute the trust or pool referred
8 to in clause (i) shall become the absolute property of
9 the Association, subject only to the unsatisfied rights
10 of the holders of the securities based on and backed
11 by that trust or pool; and

12 “(II) in the event of default by the qualified
13 mortgage insurer, and pursuant otherwise to the
14 terms of the contract, any right of the qualified
15 mortgage insurer with respect to the mortgages that
16 constitute such trust or pool and any related pri-
17 mary mortgage insurance, extended mortgage insur-
18 ance, or supplemental mortgage insurance coverage
19 and any future premiums and proceeds related
20 thereto shall become the absolute property of the As-
21 sociation, subject only to the unsatisfied rights of
22 the holders of the securities based on and backed by
23 such trust or pool and to the unsatisfied rights of
24 any insured issuer with respect to any mortgage in-
25 surance coverage.

1 “(F) No State, local, or Federal law (other than a
 2 Federal statute enacted expressly in limitation of this sub-
 3 section after the date of enactment of the Home Owner-
 4 ship Expansion Act of 2001), shall preclude or limit the
 5 exercise by the Association of—

6 “(i) its power to contract with the issuer, or the
 7 qualified mortgage insurer on the terms stated in
 8 subparagraph (E);

9 “(ii) its rights to enforce any such contract with
 10 the issuer or the qualified mortgage insurer; or

11 “(iii) its ownership rights, as provided in sub-
 12 paragraph (E), with respect to the mortgages consti-
 13 tuting the trust or pool against which the guaran-
 14 teed securities are issued, and with respect to any
 15 related primary mortgage insurance, extended mort-
 16 gage insurance, or supplemental mortgage insurance
 17 coverage and any future premiums and proceeds re-
 18 lated thereto.”;

19 (8) by striking “The full faith” and inserting
 20 the following:

21 “(G) The full faith”; and

22 (9) by striking “There shall be” and inserting
 23 the following:

24 “(H) There shall be”.

1 (b) SEPARATE ACCOUNTABILITY.—Section 307 of
 2 the National Housing Act (12 U.S.C. 1722) is amended—

3 (1) by striking “All” and inserting “(a) IN
 4 GENERAL.—All”; and

5 (2) by adding at the end the following:

6 “(b) LIMITATION.—Notwithstanding subsection (a),
 7 with respect to qualifying privately insured mortgages (as
 8 defined in section 306(i)), related earnings described in
 9 subsection (a) of this section or other amounts as become
 10 available after such allowances and as are attributable to
 11 the fees and charges assessed or collected in connection
 12 with the guaranty of trust certificates or securities based
 13 on or backed by such qualifying privately insured mort-
 14 gages shall inure to the benefit of and may be retained
 15 by the Secretary in support of programs under titles II
 16 and III of this Act.”.

17 **SEC. 4. IMPLEMENTATION AND REPORT.**

18 (a) IN GENERAL.—The Government National Mort-
 19 gage Association shall provide for the initial implementa-
 20 tion of this Act and the amendments made by this Act
 21 by—

22 (1) giving notice to its participating issuers;

23 and

24 (2) submitting a report to the Chairpersons and

25 Ranking Members of the Committee on Banking,

1 Housing, and Urban Affairs of the Senate, and the
2 Committee on Financial Services of the House of
3 Representatives, that confirms that the authority of
4 the Secretary of Housing and Urban Development
5 under section 306(h)(5) of the National Housing
6 Act, as added by this Act, does not adversely impact
7 the safety and soundness of the Government Na-
8 tional Mortgage Association.

9 (b) PUBLICATION.—The notice required by sub-
10 section (a) shall be published not later than 120 days after
11 the date of enactment of this Act.

12 (c) REPORT.—The report submitted in accordance
13 with subsection (a) shall include an economic analysis of
14 the adequacy of the guarantee fee provided for in section
15 306(g)(3)(A)(ii) of the National Housing Act, as added
16 by this Act.

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